



A telephonic conference was held today to discuss the current status and future progression of this case. In accordance with the parties' discussion:

- 1) By agreement of the defendant, conditional class certification is granted in Haferland, et. al. v. Cargill, 8:09CV00247, with the conditional class defined to include:

All current and former non-exempt hourly employees who have been employed at any time by Defendant at its Schuyler, NE facility during the time period from April 20, 2006 to the present, who were compensated on a gang time system and wore or used personal protective equipment.

- 2) Plaintiff Martinez' motion to restrict, (4:09CV3079, filing no. 63), and his unopposed motion for approval of notice and opt-in consent form, (4:09CV3079, filing no. 69), are granted. Plaintiff Martinez' motion for hearing, (4:09CV3079, filing no. 65), is denied.
- 3) Plaintiff Martinez' counsel shall mail an English and Spanish version of the court-approved notice and opt-in consent form to putative plaintiffs who have not previously completed an opt-in form to join either the Martinez or Haferland case. As to those plaintiffs who have already signed forms to opt into either the Martinez or Haferland case, notices need not be re-sent and opting in again using the court-approved consent form is unnecessary.
- 4) The deadline for opting into this case is forty-five (45) days from the date the Notice and consent form is actually mailed, and the court-approved Notice will include that deadline. Putative plaintiffs who have not consented to opt-in within the forty-five (45) day deadline will not be included in the conditional class.
- 5) The deadline for responding to written discovery served on the defendant by Martinez is extended by thirty days.
- 6) On or before March 12, 2010, counsel for Martinez and Haferland shall confer to discuss how discovery and case progression can be coordinated among the plaintiffs in this case, the goal being to develop cooperative discovery methods which avoid duplicating discovery requests, depositions, and effort, including

possibly withdrawing the written discovery already served on the defendant in favor of sending a single non-repetitive set.

- 7) On or before March 17, 2010, the parties shall confer to develop a joint stipulation for setting progression deadlines in this case. The joint stipulation shall address, at a minimum:
  - a. The deadline for Haferland's service of mandatory disclosures;
  - b. The deadline for disclosure of experts and expert reports. By agreement of the parties, expert disclosure deadlines may be staggered.
  - c. The discovery and deposition deadline.
  - d. The deadline for filing motions to certify the conditional classes and to create, if appropriate, subclasses.
  - e. The deadline for filing any Rule 23 class certification motion.
  - f. The deadline for filing motions to dismiss, motions for summary judgment or motions to exclude expert testimony on Daubert and related grounds.
  - g. A proposed pretrial conference deadline (by week and month); and
  - h. A proposed trial deadline (by month), along with a statement indicating the anticipated length of the trial.
- 8) The parties' proposed progression schedule shall be emailed to the undersigned at [zwart@ned.uscourts.gov](mailto:zwart@ned.uscourts.gov). If any case progression issues cannot be jointly resolved by the parties, the proposed progression schedule shall identify those issues and set forth the parties respective positions.

DATED this 4th day of March, 2010.

BY THE COURT:

S/ Cheryl R. Zwart  
United States Magistrate Judge